



MARIST CATHOLIC SCHOOL

PROCEDURE: **Conflict of Interest**

As a publicly funded Crown entity, the Marist Catholic School board of trustees is expected to use public funds and assets responsibly and meet public sector expectations for management of conflicts of interest. Auditors check for conflicts of interest as part of auditing annual accounts.

The board provides guidance to its trustees and the school employees for managing conflicts of interest using these guidelines:

- **All school trustees and employees need to understand what a conflict of interest (and a related party transaction) is and the different ways in which they can arise.**

In a school, there is a conflict of interest where:

The duties or responsibilities of an employee or trustee to the school and board of trustees could be affected by some other interest or duty that the employee or 'trustee' may have. The 'other interest or duty' might exist because of:

- the employee's or trustee's financial affairs
- a relationship or role that the employee or trustee has; or
- something the employee or trustee has said or done.

A conflict of interest can arise where two different interests overlap. Sometimes there may be a perception of a conflict of interest where the interest(s) come close but do not actually overlap. Whether the conflict of interest is perceived or actual, the management of the conflict of interest needs to be transparent and fair.

Conflicts of interest sometimes cannot be avoided, and can arise without anyone actually being at fault. They need not cause problems when they are promptly disclosed and well managed.

A related party transaction is defined as: "A transfer of resources, services or obligations between related parties, regardless of whether a price is charged". The most relevant related parties for schools are the key management personnel of the school and their close families.

The key question to ask when considering when an interest might create a conflict is: "Does the interest have the potential to create an incentive for the trustee or employee to act in a way which may not be in the best interest of the school?" If the answer is yes a conflict of interest exists. The existence of the incentive or a perception of bias is sufficient to create a conflict. Whether or not the individual concerned would actually act on incentive is irrelevant.

- **All school trustees and employees need to be able to identify and disclose a conflict of interest (or related party transaction).**

An employee or a trustee with a conflict of interest is obliged to identify it, and disclose it to the relevant

people in a timely and effective manner. It is better to err on the side of openness when deciding whether something should be disclosed.

Employees should raise and discuss the matter with the relevant people, e.g., principal or board chair, as soon as a conflict of interest is identified. If an interest arises in a formal meeting, declare the conflict of interest before the matter is discussed.

Trustees need to assess the risk of a conflict of interest on a case-by-case basis, but there are some situations where the board member should exclude themselves from board discussions or decisions on a relevant topic or involvement in meetings where there could be, or perceived to be, a conflict of interest. An important rule of thumb for trustees to use is 'if in doubt, opt out!'

- **Board members and school employees that have delegation to make decisions regarding expenditure are required to complete and submit an annual review and declaration listing specified types of special interests. This is called an "interests register" and should be submitted at the first board meeting of the year. The interests register is a standing item on the board's agenda.**

This interests register will assist the board in identifying and managing any financial conflicts of interest and also ensure that the stakeholders have confidence that there is no influence in the awarding of any contract or employment decisions. This register can be included with the financial statements.

If a board member has a financial interest in any contract with the board, including sub-contracts, worth more than \$25,000 a year, that person must seek the prior approval of the Secretary for Education for that contract. An "interest" means owning 10% or more of the company, or being a managing director or manager of the company with whom the contract is signed. This is a legislative requirement. Unless approved by the Secretary of Education, a person may not be a trustee if they have an interest in contracts worth more than \$25,000.

- **It is primarily the responsibility of the school or board to decide what, if any, action needs to be taken to avoid or mitigate any effects of the conflict of interest.**

If a conflict of interest is declared, it should be documented.

If any legal requirement or policy applies, compliance with that is critical. If not, the board needs to use discretionary judgement to consider whether anything more needs to be done.

Usually mitigation means that the employee or trustee withdraws or is excluded from being involved in the work on the particular matter. In making this assessment, the school needs to consider how the situation may reasonably appear to an outside observer. In the interest of openness and fairness (and to minimise the risk of the school having to defend itself against an allegation of impropriety), it is always safer to err on the side of caution.

In difficult situations it may be necessary to seek professional advice from the NZ School Trustees Association or any other employment adviser approved by the board's liability insurer, or consult published sources of guidance on how to handle any matters of concern.